

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **April 9, 2002**

AGENDA ITEM NO.: 20

CONSENT:

REGULAR: **X**

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Conditional Use Permit (CUP) – ProWash USA, Inc.**

RECOMMENDATION: Denial of the requested CUP.

SUMMARY: James A. Taylor has petitioned for a CUP at 2012 Wards Road to allow the construction of an automatic car wash on the existing parking lot of Kroger's in a B-3, Community Business District. The Planning Division (PD) recommended denial of the CUP because:

- Petition does not agree with the *General Plan*, which recommends a Business Commercial use.
- Petition will increase the intensity of the existing commercial activity in the area and on the congested site.
- Proposed use is visually less compatible with the surrounding area than the existing uses.

The petition was considered by the Planning Commission (PC) on November 14, at which time the PC recommended approval of the CUP, with the conditions noted below. The petition was scheduled to be considered by City Council on December 11, but the petitioner requested the matter be postponed to allow time to revise the site plan to address some of the concerns expressed by the PC. The petitioner has requested that the site plan be brought to City Council at this time as it was originally submitted to the Planning Commission. The petitioner has made no changes to the site plan considered by the Planning Commission. In the event City Council decides to approve the petition, a draft resolution to do so has been attached with this report.

PRIOR ACTION(S):

November 14, 2001: Planning Division recommended denial of CUP
Planning Commission recommended approval (4-2, with one member absent) of CUP with the following conditions:

1. The car wash shall be constructed from brick to match the existing Kroger store.
2. The structure shall be located as compatible with any efforts to install a shared access.
3. Provisions shall be made for a shared access from the adjacent Hollywood Video property.
4. The exterior wall adjacent to the property shall be of a proper fire rating in accordance with the building code.

FISCAL IMPACT: N/A

CONTACT(S):

Rachel Flynn/ 847-1508, ext. 253
Bill McDonald/ 847-1508, ext. 257

ATTACHMENT(S):

- Resolution
- PC Report
- PC minutes
- Vicinity Map
- Land Use Map
- Site plan
- Photograph

REVIEWED BY:

RESOLUTION

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO JAMES A. TAYLOR FOR USE OF THE PROPERTY AT 2012 WARDS ROAD TO ALLOW THE CONSTRUCTION AND OPERATION OF AN AUTOMATIC CAR WASH, SUBJECT TO CERTAIN CONDITIONS.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG That the petition of James A. Taylor for a Conditional Use Permit for use of the property at 2012 Wards Road to allow the construction and operation of an automatic car wash in a B-3, Community Business District be, and the same is hereby approved, subject to the following conditions:

1. That the car wash shall be constructed from brick to match the existing Kroger store.
2. The structure shall be located as compatible with any efforts to install a shared access.
3. Provisions shall be made for a shared access from the adjacent Hollywood Video property.
4. The exterior wall adjacent to the property line shall be a of a proper fire rating in accordance with the building code.

Adopted:

Certified:

Clerk of Council

083L

To: Planning Commission
From: Planning Division
Date: November 14, 2001
Re: **CONDITIONAL USE PERMIT: Car Wash at 2012 Wards Road**

I. PETITIONER

James A. Taylor, 20423 Timberlake Road, Lynchburg, VA 24502.
Representative: Mr. James A. Taylor, 20423 Timberlake Road, Lynchburg, VA 24502.

II. LOCATION

The subject property is part of a tract of about 6 acres located at 2012 Wards Road. Property Owner: The Kroger Co., P.O. Box 14992, Roanoke, VA 24038.

III. PURPOSE

The purpose of this petition is to obtain a Conditional Use Permit (CUP) to allow the construction of an automatic car wash on a tract with an existing commercial building (Kroger's).

IV. SUMMARY

- Petition does not agree with the *General Plan*, which recommends a Business Commercial use.
- Petition will increase the intensity of the existing commercial activity.
- Petition is considered to be less compatible with the surrounding area than the existing uses.

The Planning Division recommends denial of the CUP Petition.

V. FINDINGS OF FACT

1. **General Plan.** The Lynchburg *General Plan* recommends a Business Commercial use for the subject property. The *General Plan* has consistently recommended a commercial land use for the subject property.

The *General Plan* discourages scattering commercial activities throughout the City. Scattering often results in increased inconvenience for customers and increases the dangers of blighting effects on residential areas. Objective 4 recommends "[a] pattern of commercial uses and design of commercial areas which cause a minimum of nuisance to living areas and of interference with traffic on major thoroughfares." Objective 5 recommends, "Continuing commercial growth and redevelopment of high quality." Policy 4 states, "New commercial activities will be encouraged where they provide a high standard of site and building design with adequate parking and access facilities." The subject petition proposes to add a new more intensive commercial use in an existing moderately intensive commercial development. The proposal will increase congestion in the area, but fails to provide for improved vehicular access to the area.

2. **Zoning.** The site proposed for the car wash is presently zoned B-3, Community Business District. The petitioner is requesting approval of a CUP to allow a more intensive land use than the existing B-3 district allows by right. A car wash is considered to be of B-5 intensity. The entire Wards Road corridor is zoned B-3 in this area. The proposed CUP makes the existing commercial property less compatible with the adjacent zoning and land uses.
3. **Board of Zoning Appeals (BZA).** No action by the BZA is necessary.
4. **Surrounding Area.** There have been no recent CUP petitions in the vicinity of the subject property. There is a rezoning petition pending for the property at 4006 Wards Road (for Walgreens).

- Structure shall be moved about 100 to 120 feet toward the Kroger building
- Substantial landscaping shall be planted at the front of the property and along the proposed car wash

- Provision shall be made for a shared access from the adjacent (Hollywood Video) property.”
- (2) “The location of the 19 parking spaces proposed at the rear of the store would probably be inconvenient to Kroger customers.”
- (3) “Landscaping equal to 5% of the parking area is to be planted on the site. This would include any landscaping removed by the new car wash facility.”
- (4) “it was noted that the proposed building is within 10 feet of the property line. The exterior wall adjacent to the property line shall have the proper fire rating in accordance with the Building Code requirement.”

11. Conditions. According to Section 35.1-15 (1) of the Zoning Ordinance, the Planning Commission and the City Council may impose any conditions for the facility, which are deemed necessary or appropriate in approving the requested CUP.

IV PLANNING DIVISION RECOMMENDATION

The Planning Division recommends denial of the subject CUP petition. However, in the event the Planning Commission or City Council should deem it appropriate to approve the petition, it is suggested that consideration be given to appropriate conditions to allow the proposed development, such as, requiring shared access (at least to the adjacent property line), relocation of the car wash toward the Kroger building, and adequate landscaping.

Based on the preceding Findings of Fact, the Planning Division recommends to the City Council denial of the petition of James A. Taylor for a Conditional Use Permit to allow the construction and operation of an automatic car wash at 2012 Wards Road in a B-3, Community Business District.

This matter is respectfully offered for your consideration.

William K. McDonald, AICP
Acting City Planner

pc: Mr. L. Kimball Payne, III, City Manager
Mr. Walter C. Erwin, City Attorney
Ms. Rachel O. Flynn, Director of Community Planning & Development
Mr. Bruce A. McNabb, Director of Public Works
Mr. John W. Jennings, Fire Marshal
Ms. Judith C. Wiegand, Strategic Planner
Mr. J. Lee Newland, Director of Engineering
Mr. Gerry L. Hatter, Traffic Engineer
Mr. Robert Drane, Acting Building Commissioner
Mr. Arthur L. Tolley, Zoning Official
Mr. Robert S. Fowler, Zoning Official
Mr. James A. Taylor, Representative

VI. ATTACHMENTS

1. Vicinity Zoning Pattern
(see attached map)
2. Vicinity Proposed Land Use
(see attached map)
3. Site Plan and photo
(see attached site plan)

Petition of James A. Taylor for a Conditional Use Permit at 2012 Wards Road to allow the construction of an automatic car wash on the existing parking lot of Kroger's in a B-3, Community Business District.

Mr. McDonald reviewed the requesting saying that the B-3 zoning does not allow a car wash by right; therefore, the petitioner needed approval of a CUP.

Mr. James A. Taylor, petitioner, represented his request. Mr. Taylor said he was a Lynchburg resident and owned two Clean Lube stores in the City. He said the proposed project would be a joint venture with Kroger to develop car washes in Lynchburg, as well as Roanoke and Christiansburg. He explained that this facility would be between the Kroger building and the gas pumps, to the edge of the property near the video store. He said a car wash was a natural fit with the gas pumps. He added that Kroger had approved the proposed construction materials, and the proposed red, white and blue colors of the structure were in keeping with Kroger's corporate colors.

Mr. Taylor described the car wash as a one-bay self-serve wash. He said the building would be constructed from polycarbonate, aluminum, and glass. He added that the type of construction material involved a safety factor. He said the proposed materials would be easier to clean as it self cleans every third wash. Mr. Taylor said the water used by the car wash would be run through a filter to remove the minerals, which would aid in keeping the glass clean. Additionally, he said, the facility would be physically maintained and cleaned each week. He said they would replace the current landscaping and add more plant materials.

Mr. Taylor reviewed comments from the TRC. He explained that Public Works was concerned about the need for additional water and sewer lines. He said the car wash required a 1" meter, a 1.5" water line, and a 4" sewer line. He said the Fire Marshal asked that a fire rated wall be built on the side of the building adjoining the video store parking lot. Mr. Taylor explained that there would be no flammable liquids or materials on site that would pose a fire risk. He said the Urban Forester requested that a landscape plan be submitted, which he will do before he gets a building permit. He noted that the Zoning Official requested that nineteen (19) parking spaces be moved to the back of the store. He added that, even though the parking spaces would be relocated to the back of the store, there would still be enough room for delivery trucks to turn around. He said the Traffic Engineer indicated that there would be no increase in traffic generated by the proposed car wash. Mr. Taylor said the Planning Department requested that the car wash be constructed from brick, which is impossible for him to do, and they also requested that the building be moved back 100-125 feet toward Kroger. Mr. Taylor said he would not move the structure closer to the store due to a possible increase in traffic congestion in that area.

Ms. Carrie Pugh, assistant Real Estate Manager for the Mid-Atlantic Division of Kroger, addressed the Planning Commission. She said even though Mr. Taylor would be the owner of the car wash, the Kroger Company wanted it to appear that the store, the gas station, and the car wash were all Kroger affiliates, and by using the same red, white, and blue theme, this goal would be achieved. She said the installation of a car wash would be an additional service to draw customers into their store. She told the Commission that the parking spaces proposed for relocation to the back of the store were parking spaces for store employees and no customer parking would be eliminated due to this relocation. Ms. Pugh said the City's Planning Division strongly recommended the installation of a shared access with Hollywood Video, and the Kroger Company felt obligated to agree to the recommendation in order for the car wash to be approved.

Mr. Ronnie Hicks, 237 Twin Oak Drive, spoke for the neighborhood in opposition to the petition. Mr. Hicks said Kroger was a good store, but his neighborhood had been bother by them since the store moved to that location. He said there was constant noise due to the 24-hour deliveries, dumpsters being emptied during the early hours of the morning, and trash blowing onto their property. He added that a car wash would be used 24-hours a day, 365 days a year, thus adding to the existing noise. Mr. Hicks commented that Kroger's current retention pond was a good location for mosquitoes to breed and thought the car wash might increase that problem.

Mr. Taylor gave a rebuttal. He explained that even though the car wash would be open 24-hours a day the system was very quiet. He added that any wastewater generated by the system would empty into City sewer

lines and would not add any water to the existing retention pond. He said the car wash would be equipped with one trash can that would be emptied daily, and that should eliminate excess trash from blowing into the neighborhood. Mr. Taylor finished by saying that there would be no additional traffic generated by the car wash; they would capitalize on current grocery and gas customers.

Mr. Hicks gave a rebuttal. He said even if traffic does not increased due to the car wash, traffic would be moving constantly in that area and he thinks there would be more congestion than there already is. He said there was also concern with increased traffic in the Wards Road area.

Commissioner Worthington said he was concerned that the back parking lot would be more secluded and would be an ideal place for kids to hang out. He also voiced his concern with the design of the building and asked the petitioner if he would consider a different design.

Commissioner Echols asked the petitioner if he would consider building a brick structure. He said a brick structure would blend better with the brick of the existing Kroger store.

Mr. Taylor said he would not consider building a brick building. He said the car wash would match the fuel center, not the store itself. He said a structure like the one he was proposing was less conspicuous than brick, and there was a safety factor involved with a brick building.

Chair Dahlgren asked Ms. Pugh why Kroger was opposed to building an access between their store and the video store, when Kroger already had a shared access with the Ames shopping area.

Ms. Pugh explained that the City did not inform the Kroger Company of the recommended shared access, the petitioner, Mr. Taylor, was the one who informed them. She said at that point, Kroger understood that in order to have a car wash, they had to install the access. She added that there was also a cost factor involved in having to install another access when they already had a shared access with Ames. Ms. Pugh added that the car wash would be the same color scheme of the Kroger Corporation, including the gas station. She said the design of the car wash was small and the construction materials would not block the view.

Mr. Gerry Harter, City Traffic Engineer, addressed the Planning Commission concerning the shared access. Mr. Harter said shared accesses did reduce traffic on public streets, thus, decreasing accidents on those streets. He said in his experience customers go to areas with joint accesses and he encouraged shared accesses between properties.

Chairman Dahlgren asked about a traffic study for the area.

Commissioner Flint asked, if an access was built near the back of Hollywood Video, would the cars waiting in queue at the car wash interfere with the cross traffic.

Mr. Harter said the car wash would not generate any additional traffic; however, he said, would generate about double the amount of the current restaurant and transmission shop. He added that the restaurant and transmission shop generated much less traffic than average. He responded to Commissioner Flint's question saying that moving the car wash further away from the gas pumps would probably interfere with a cross access between Kroger and the video store, and in those terms, it would be better to leave the car wash at the current proposed site.

Mr. Taylor said his proposed car wash and the connector between Kroger and were two separate issues. He added that he felt if he did not provide the stub off to the video store, his petition would not be approved.

Commissioner Worthington asked Mr. McDonald why the Planning Division recommended denial of this project.

Mr. McDonald said initially the comments from the Planning Division concerned the intensity issue of this site. He said the petitioner was requesting a B-5 use in a B-3 area, which could only be allowed by a CUP. He

added that the Planning Division suggested that several conditions be added to this request in the event the Planning Commission should recommend approval of the CUP.

Commissioner Moore said the initial problem with the congestion of the site was the poor design of the original Kroger parking lot, and until the lot was re-designed, everything else is irrelevant.

Commissioner Worthington said it would be better for the cars to enter and exit at one site, if the businesses would agree to joint access. He said the fewer cars accessing Wards Road, the better the traffic situation would be.

Ms. Judy Wiegand, Strategic Planner, explained that the City was proposing that each property owner stub-in an access to their property line at a point where they could be connected in the future, citing the same reasons that the traffic Engineer stated.

Commissioner Flint expressed his support of the car wash with the current footprint. However, he said he would like to add the conditions: (1) that the petitioner build an access to the Hollywood Video property for possible future connection, and (2) that the building be constructed of brick.

Commissioner Moore said the site for the proposed car wash was the most economically beneficial location for it to be constructed. However, he added, because of that location, the congestion would be increased in an area that was already congested and hazardous for Kroger shoppers. He noted that when more than five customers were waiting to wash their cars, the cars would be backed out into the parking lot and possibly block traffic. He said, if the properties were connected, the issue of service traffic needed to be considered. Commissioner Moore said the car wash should be constructed of brick, then added that he could not support this petition due to hazards, congestion and confusion that already exists in the parking lot. He said that until the Commission knows how the proposed changes would impact the site plan, he did not think they could make a recommendation to the City Council

Commissioner Echols agreed with Commissioner Moore in that adding a car wash would only add to the hazards and congestion that were already present in the parking lot and said he could not support the petition.

Chair Dahlgren said he was in favor of the petition with conditions. He said he would support a car wash constructed of brick to match the exciting Kroger building, move the building back 100-125 feet, make provisions for a shared access to Hollywood Video, and construct the exterior wall adjacent to the property line with fire rated material according to the Fire Marshal's recommendation.

After further discussion, Commissioner Dahlgren made the following motion, which was seconded by Commissioner Flint and passed by the following vote:

"That the Planning Commission recommends to the City Council approval of the petition of James A. Taylor for a Conditional Use Permit to allow the construction and operation of an automatic car wash at 2012 Wards Road in a B-3, Community Business District based on the following conditions:

- That the car wash shall be constructed from brick to match the existing Kroger store.
- The structure shall be located as compatible with any efforts to install a shared access.
- Provisions shall be made for a shared access from the adjacent Hollywood Video property.
- The exterior wall adjacent to the property line shall be a of a proper fire rating in accordance with the building code."

AYES:	Dahlgren, Flint, Pulliam, Worthington	4
NOES:	Echols, Moore	2
ABSTENTIONS:		0